

REMARKS

Claims 1, 4, 7-11 and 17-20 have been rejected under 35 U.S.C. 102(b) as being anticipated by the Cooper et al publication (US PGP 2001/0051996 A1).

The Cooper publication deals with watermarking media files specific to the media and end user or consumer in order to identify inappropriate distribution of copyright materials and effect appropriate enforcement. This system does not do any billing for the use of copyrighted material.

Applicant, on the other hand, watermarks media specific to the vendor and/or copyright holder and does not watermark media specific to the consumer. The consumer rather, in applicant's system, is identified by the existing ISP gateway under the predetermined ISP/consumer service billing relationship. In applicant's invention, furthermore, the ISP gateway is used as a media tollbooth for the further foundation of automatically billing the consumer via the existing ISP-a concept totally foreign to the publication of Cooper et al.

Though it is believed that the above claims originally contain language making this distinction over Cooper et al, claims 1, 4, 7-11, 14 and 17-20, have been herein amended to make these distinctions even clearer. Claim 1, for example, now specifies that, in applicant's system, unlike Cooper et al, the consumer is "ISP gateway - identified." Furthermore, the claims requires that the "ISP gateway also serve as a media tollbooth, automatically billing the consumer via the existing ISP", which is entirely different from the operation of the Cooper et al system.

Remaining claims 1, 7-11, 14 and 17-20 incorporate similar amendments clearly definitive over the operation of the publication to Cooper et al. Reconsideration and allowance of the claims, particularly as amended, therefore appears to be in order and are respectfully requested.

Claims 2, 3, 12 and 13 have been rejected under 35 U.S.C. 103 (a) as being the "obvious" combination of billing and fee distributing disclosed in the Himeno et al (US PGP 2004/025851 A1) publication. Claims 5, 6, 15 and 16 have been similarly rejected and further in view of an "obvious" incorporation of music vendor distribution taught in the publication to Levy (US PGP 2002/0052885 A1).

Since the rejection on the primary reference to Cooper et al have been shown to be improper, the "obviousness" ground of rejection must also fall. This is further required since, as will now be demonstrated, to try to incorporate the billing and service fee concepts of Himeno et al, with or without the distribution system of Levy, is not even hinted at, let alone suggested, in the operation of the publication to Cooper et al which is, thus, an improper basis for rejection.

The methodology involved in the publication to Cooper et al, indeed, is not calculated to enable an automatic billing service, without which, it is submitted, that one skilled in the art would not "obviously" think to incorporate the techniques of the Himeno publication except perhaps after exposure to the hindsight of applicant's invention.

Even if it were proper to attempt to combine the teaching of the Himeno disclosure, this would seem to be talking apples and oranges since Himeno's system does not deal with the type of system claimed and used by applicant but, rather, is

concerned with an "electronic merchandise distribution system using an electronic merchandise receiving terminal, and an electronic merchandise distribution management unit storing non real-time compressed contents," and wherein the individual consumer or end-user is not even directly billed. Furthermore, applicant's utilization of the ISP gateway, both as an identifier and a direct-billing tollbooth, as claimed, is not involved in the Himeno system.

At best, the Office has selected bits and pieces of billing techniques, but there is no way to read applicant's specific claims, particularly as amended, on any combination of the publications to Cooper, Himeno and Levy.

Reconsideration and allowance of all the claims are therefore respectfully requested and any costs due from this amendment, or otherwise, including for any required reply time extension, petition for which is hereby made, may be charged to the Deposit Account No. 18-1425 of the undersigned attorney(s).

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